

Remarks

The Office Action of October 6, 2008, has been carefully reviewed and these remarks are responsive thereto. In the Office Action, claims 1, 2 and 4-16 were pending. Upon entry of the present paper, claims 1, 2 and 7 are amended, claims 14-16 are canceled without prejudice or disclaimer, and new claims 17-23 are added. No new matter is introduced by the additional claims.

The Office Action's rejections are as follows:

- Claims 1, 4-7, 9, and 14-16 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo et al. (US 2005/0015816), hereinafter referred to as Christofalo in view of Jackson et al. (US 2002/0152305), hereinafter referred to as Jackson, and further in view of Dewar et al. (US 2005/0278760), hereinafter referred to as Dewar. See Office Action at pp. 2-10.
- Claim 2 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Gregson et al. (US 7,072,305), hereinafter referred to as Gregson.
- Claim 12 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Mo et al. (US 7,289,429), hereinafter referred to as Mo.
- Claims 8 and 10 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Stone et al. (US 2005/0066356), hereinafter referred to as Stone.
- Claim 11 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Kompella et al. (US 5,892,754), hereinafter referred to as Kompella.
- Claim 13 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Perlman et al. (US 5,455,865), hereinafter referred to as Perlman.

Amended Independent Claim 1 and Dependent Claims 2, 4-13 and 17

Claims 1, 4-7, 9, and 14-16 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and further in view of Dewar. Applicant respectfully submits that the prior art of record does not teach or suggest all elements of the claimed combination as amended hereby.

For example, amended independent claim 1 recites, *inter alia*:

during content delivery, at a network element, inserting data into the content delivery path to produce a modified content stream containing inserted in-stream data, the inserted data including session state information of at least one device in the content delivery path downstream from the network element; and processing the modified content stream to perform state information recovery of at least one device in the content delivery path, as content passes through the content delivery path

The Office cites a combination of three references in rejecting claim 1, Christofalo, Jackson, and Dewar. This combination of references, however, does not yield the method recited in amended independent claim 1, for at least the reasons presented herein.

First, amended claim 1 recites a network element inserting data, the inserted data including session state information of at least one device in the content delivery path downstream from the network element. Jackson is cited as allegedly teaching the insertion of state data, and as the Office acknowledges in the Office Action, Jackson's processing engine reports its own resource usage information to the resource utilization monitor 1066. Office Action, p. 4. The engine does not, however, report session state information of a downstream device, so the alleged combination of Christofalo and Jackson would not result in the insertion of session state information of at least one device in the content delivery path downstream from the network element, as recited. Dewar further offers no teaching or suggestion to modify Christofalo/Jackson to insert such downstream session state information.

Second, amended claim 1 also recites processing the modified content stream to perform state information recovery ... as the content passes through the content delivery path. The Office Action contends that Dewar's failure recovery discussion teaches the previously-recited information recovery, but Dewar's disclosure on recovery does not teach processing the

modified content stream to perform state recovery. Instead, recovery according to Dewar uses information obtained from outside of a content stream. Specifically, Dewar's recovery information is stored at the streaming controller 72 and obtained from a Resource Allocator 120, both of which are located outside of the content path in Dewar (from File System 100, to VOD Server 74, to customer STB 108 and TV 110), circled in Fig. 1 below:

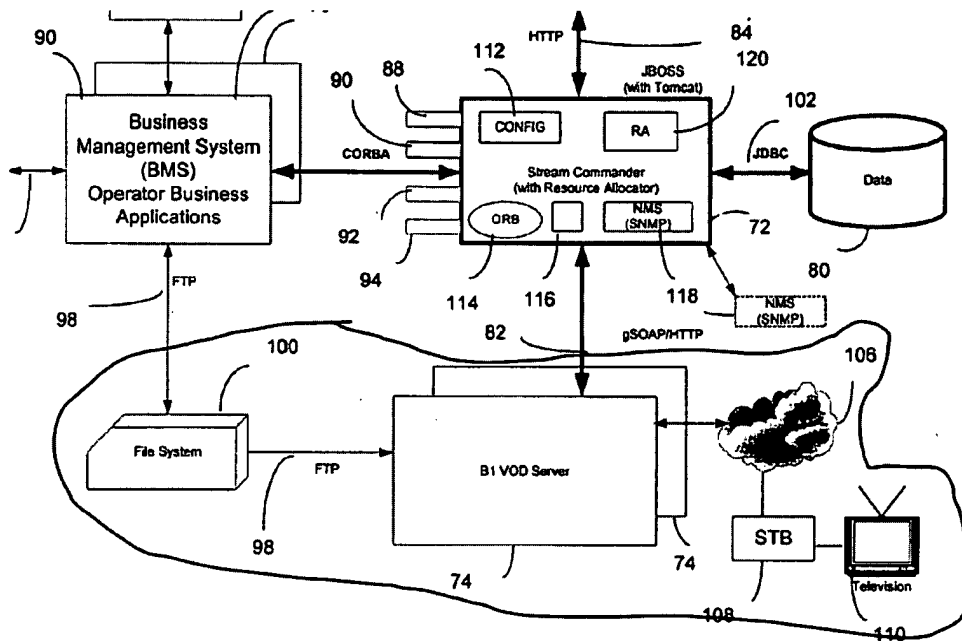


FIG. 2

Accordingly, recovery according to Dewar does not utilize any in-stream data, and does not “process[] the modified content stream to perform state information recovery ... as the content passes through the content delivery path,” as recited. Neither Jackson nor Christofalo provide teachings which overcome this shortcoming of Dewar.

For at least these reasons, claim 1 is allowable over the prior art combination. Claims 4-7 and 9 should all be allowable based at least on their dependency from allowable independent claim 1.

Claim 2 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Gregson et al. (US 7,072,305), hereinafter referred to as Gregson. Gregson, however, does not cure the noted deficiencies of the Christofalo/Jackson/Dewar combination, and claim 2 should be allowable based at least on its dependency from allowable independent claim 1.

Claim 12 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Mo et al. (US 7,289,429), hereinafter referred to as Mo. Mo, however, does not cure the noted deficiencies of the Christofalo/Jackson/Dewar combination, and claim 12 should be allowable based at least on its dependency from allowable independent claim 1.

Claims 8 and 10 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Stone et al. (US 2005/0066356), hereinafter referred to as Stone. Stone, however, does not cure the noted deficiencies of the Christofalo/Jackson/Dewar combination, and claims 8 and 10 should be allowable based at least on their dependency from allowable independent claim 1.

Claim 11 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Kompella et al. (US 5,892,754), hereinafter referred to as Kompella. Kompella, however, does not cure the noted deficiencies of the Christofalo/Jackson/Dewar combination, and claim 11 should be allowable based at least on its dependency from allowable independent claim 1.

Claim 13 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Christofalo in view of Jackson and Dewar and further in view of Perlman et al. (US 5,455,865), hereinafter referred to as Perlman. Perlman, however, does not cure the noted deficiencies of the Christofalo/Jackson/Dewar combination, and claim 13 should be allowable based at least on its dependency from allowable independent claim 1.

New claims 18-23 are also believed to be distinguishable over the prior art of record.

Conclusion

All objections and rejections have been hereby addressed. Hence, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited. If the Examiner has any questions, the Examiner is invited to contact the undersigned at the number provided below.

Respectfully submitted,
WALTER F. MICHEL

By /Bernard P. Tomsa/
Bernard P. Tomsa
Reg. No. 60,121
Attorney/Agent for Applicant

Date: 01/06/2009

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351